

1 **SENATE FLOOR VERSION**

2 April 8, 2024

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 HOUSE BILL NO. 3011

6 By: Smith and Waldron of the
7 House

8 and

9 Kidd of the Senate

10 An Act relating to agriculture; amending 2 O.S. 2021,
11 Sections 3-402 and 3-403, as amended by Sections 1
12 and 2, Chapter 265, O.S.L. 2022 (2 O.S. Supp. 2023,
13 Sections 3-402 and 3-403), which relate to the
14 Oklahoma Industrial Hemp Program; modifying
15 definitions; modifying amount of allowable delta-9
16 tetrahydrocannabinol concentration; requiring certain
17 harvest within certain time frame; modifying elements
18 of remediation; allowing animal consumption of
19 industrial hemp within certain criteria; amending 2
20 O.S. 2021, Sections 3-404, 3-406.1, and 3-408, as
21 amended by Section 3, Chapter 265, O.S.L. 2022 (2
22 O.S. Supp. 2023, Section 3-408), which relate to the
23 Oklahoma Industrial Hemp Program; modifying elements
24 of application process; modifying elements of
remediation; modifying amount of allowable delta-9
tetrahydrocannabinol concentration; and providing an
effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 2 O.S. 2021, Section 3-402, as
amended by Section 1, Chapter 265, O.S.L. 2022 (2 O.S. Supp. 2023,
Section 3-402), is amended to read as follows:

Section 3-402. As used in the Oklahoma Industrial Hemp Program:

1 1. "Department" means the Oklahoma Department of Agriculture,
2 Food, and Forestry;

3 2. "Fiber" means the stalk of the industrial hemp plant and
4 does not include the flower or seeds of the plant;

5 3. "Flower" means the part of the industrial hemp plant that
6 contains the majority of the industrial hemp plant's
7 tetrahydrocannabinol and other cannabinoids;

8 4. "Grain" means all of the parts of an industrial hemp plant
9 except the stalk or the flower of the industrial hemp plant;

10 5. "Handling" means possessing or storing industrial hemp for
11 any period of time on premises owned, operated or controlled by a
12 person licensed to cultivate or process industrial hemp and also
13 includes possessing or storing industrial hemp in a vehicle for any
14 period of time other than during its actual transport from the
15 premises of a licensed person to cultivate or process industrial
16 hemp to the premises of another licensed person;

17 6. "Industrial hemp" means the plant *Cannabis sativa* L. and any
18 part of the plant, including the seeds thereof, and all derivatives,
19 extracts, cannabinoids, isomers, acids, salts and salts of isomers,
20 whether growing or not, with a total delta-9 tetrahydrocannabinol
21 concentration of not more than three-tenths of one percent (0.3%) on
22 a dry-weight basis;

23 7. "Key participant" means a person who has a direct or
24 indirect financial interest in the entity producing hemp, such as an

1 owner or partner in a partnership. A key participant includes an
2 individual who is part of a corporate entity or a tribal-owned
3 corporation. A key participant also includes an executive-level
4 individual such as a chief executive officer, chief operating
5 officer, or chief financial officer. Such term shall not include
6 such management personnel as a farm, field, or shift manager or a
7 member of the leadership of a tribal government who is acting in his
8 or her capacity as a tribal leader except when such member exercises
9 executive managerial control over hemp production;

10 8. "Licensee" means a person who holds a valid Industrial Hemp
11 License to grow industrial hemp under the Oklahoma Industrial Hemp
12 Program. A licensee shall have the ability to remediate
13 noncompliant industrial hemp with a total delta-9
14 tetrahydrocannabinol concentration of not more than one percent
15 (1.0%) on a dry-weight basis for retesting as set forth by the
16 Department as long as the noncompliant industrial hemp has a total
17 delta-9 tetrahydrocannabinol concentration of not more than three-
18 tenths of one percent (0.3%) on a dry-weight basis after retesting,
19 and the option to remediate the industrial hemp through the
20 reasonable destruction of the flower or shredding of the entire lot
21 into a homogeneous biomass results in the remediation of any part of
22 the industrial hemp plant that is above three-tenths of one percent
23 (0.3%) on a dry-weight basis. All noncompliant hemp must be tracked
24 and documented. The State Board of Agriculture shall have

1 jurisdiction over such remediation, which includes, but is not
2 limited to, destruction through composting, burning, or other
3 regulated disposal methods if the industrial hemp is not remediated
4 into a final product before processing below three-tenths of one
5 percent (0.3%) on a dry-weight basis;

6 ~~8.~~ 9. "License" means authorization by the Department for any
7 person to grow and cultivate industrial hemp on a registered land
8 area as part of the Oklahoma Industrial Hemp Program; and

9 ~~9.~~ 10. "Processing" means converting industrial hemp into a
10 marketable form, including the production of all derivatives,
11 extracts, cannabinoids, isomers, acids, salts, and salts of isomers.

12 SECTION 2. AMENDATORY 2 O.S. 2021, Section 3-403, as
13 amended by Section 2, Chapter 265, O.S.L. 2022 (2 O.S. Supp. 2023,
14 Section 3-403), is amended to read as follows:

15 Section 3-403. A. 1. A licensee is authorized to engage in
16 the growth, cultivation, handling or processing of industrial hemp
17 and may remediate noncompliant industrial hemp with a total delta-9
18 tetrahydrocannabinol concentration of not more than one percent
19 (1.0%) on a dry-weight basis and prepare for retesting as set forth
20 by the Department as long as the noncompliant industrial hemp has a
21 total delta-9 tetrahydrocannabinol concentration of not more than
22 three-tenths of one percent (0.3%) on a dry-weight basis after
23 retesting, or all or part of the product is disposed of in the
24 process of remediation so that only a compliant product (with a

1 total delta-9 tetrahydrocannabinol concentration of not more than
2 three-tenths of one percent (0.3%) on a dry-weight basis) is left,
3 or all disposable waste is destroyed following a remediation
4 process. Upon a sample collection verifying a compliant delta-9
5 tetrahydrocannabinol concentration, the licensee shall harvest
6 within thirty (30) days of sample collection.

7 2. ~~A remediation facility shall be an option of the remediation~~
8 ~~process. The licensee may remediate any noncompliant industrial~~
9 ~~hemp at its own facilities, affiliated facilities, or third-party~~
10 ~~facilities as long as these facilities are licensed and approved by~~
11 ~~the State Board of Agriculture as a remediation facility. The State~~
12 ~~Board of Agriculture shall be notified before any noncompliant~~
13 ~~industrial hemp is transported to a remediation facility Remediation~~
14 ~~shall occur on the facility of the licensee. Noncompliant~~
15 ~~industrial hemp shall not leave such facility until a compliant test~~
16 ~~is conducted by the Department or a lab approved by the Department.~~
17 Retesting of any noncompliant industrial hemp shall be done within
18 sixty (60) days post-harvest. Within seven (7) days of receiving
19 notice of a measured tetrahydrocannabinol concentration that exceeds
20 the acceptable hemp tetrahydrocannabinol level but is less than one
21 percent (1.0%), the licensed grower shall consent to the destruction
22 of all cannabis from that lot, or he or she may request remediation
23 and a post-harvest retest in a homogenized form in accordance with
24 the procedures established by the State Board of Agriculture. A

1 measured tetrahydrocannabinol concentration that exceeds one percent
2 (1.0%) shall require the licensed grower to properly dispose of all
3 cannabis from that lot. The retest fee shall be paid in an amount
4 established by the State Board of Agriculture. Samples with a
5 measured tetrahydrocannabinol concentration of one percent (1.0%) or
6 greater shall not be eligible for a post-harvest retest or
7 remediation and shall be destroyed.

8 3. Licensees ~~are allowed to~~ may sell industrial hemp grain and
9 other industrial hemp derivatives that are either grown or processed
10 in this state, that do not include the flower, for the purpose of
11 livestock feed and other animal consumption in this state if the
12 licensee meets the requirements for compliant hemp with a total
13 delta-9 tetrahydrocannabinol concentration not more than three-
14 tenths of one percent (0.3%).

15 B. The activities performed under the Oklahoma Industrial Hemp
16 Program shall not subject the persons participating in the program
17 to criminal liability under the Uniform Controlled Dangerous
18 Substances Act. The exemption from criminal liability provided for
19 in this subsection is a limited exemption that shall be strictly
20 construed and shall not apply to an activity that is not expressly
21 permitted under the Oklahoma Industrial Hemp Program.

22 SECTION 3. AMENDATORY 2 O.S. 2021, Section 3-404, is
23 amended to read as follows:

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1 Section 3-404. A. A person intending to engage in industrial
2 hemp growth, cultivation, handling, or processing authorized under
3 the Oklahoma Industrial Hemp Program shall apply to the Oklahoma
4 Department of Agriculture, Food, and Forestry for a license prior to
5 planting, handling, or processing the industrial hemp.

6 1. The application shall include:

- 7 a. the name and address of the applicant,
- 8 b. the legal description, global positioning system
9 location, and map of the land area on which the
10 applicant will engage in industrial hemp growth and
11 cultivation operations, handling operations or
12 processing operations, ~~and~~
- 13 c. a statement of intended end use, and
- 14 d. a criminal history record check for all key
15 participants submitted with the initial or renewal
16 application.

17 2. By submitting an application, the applicant acknowledges and
18 agrees that:

- 19 a. information provided to the Department may be provided
20 to law enforcement agencies,
- 21 b. the applicant shall allow and fully cooperate with any
22 inspection and sampling that the Department deems
23 necessary,

- 1 c. the applicant will submit all required reports by the
2 applicable due dates specified by the Department, and
3 d. the applicant has the legal right to cultivate, handle
4 or process industrial hemp on the registered land area
5 and shall grant the Department access for inspection
6 and sampling.

7 B. The Department shall collect a nonrefundable fee from the
8 applicant at the time of application. The Department shall set a
9 fee schedule based on the size and use of the land area on which the
10 licensee will conduct industrial hemp growing or cultivation
11 operations and shall set the fee at a level sufficient to generate
12 the amount of monies necessary to cover the Department's direct
13 costs in implementing the Oklahoma Industrial Hemp Program. Denied
14 applications for a license may be resubmitted within a twelve-month
15 period. The Department may waive the fee for resubmitted
16 applications.

17 C. A license issued pursuant to this section is valid for one
18 (1) year. In order to continue engaging in industrial hemp growth
19 and cultivation operations in Oklahoma, the licensee shall annually
20 apply for a license in accordance with subsection A of this section.
21 The Department may set a separate fee schedule for renewal of
22 existing licenses in good standing.

23 D. All industrial hemp plant material shall be planted, grown
24 and harvested under a valid license. Any plant material that is not

1 harvested in the license period in which it was planted or volunteer
2 plants that are not destroyed must be declared for inclusion in a
3 subsequent license.

4 E. If the licensee wishes to alter the land area on which the
5 licensee will conduct industrial hemp growth, cultivation, handling
6 or processing operations within thirty (30) days of any new license,
7 before altering the area, the licensee shall submit to the
8 Department and the United States Department of Agriculture Farm
9 Service Agency an updated legal description, global positioning
10 system location, and map specifying the proposed alterations.

11 F. Each licensee shall report any changes to information
12 provided in the license application within ten (10) days of such
13 change to the Department and the United States Department of
14 Agriculture Farm Service Agency.

15 G. A licensee shall maintain all records pertaining to the
16 license and growing records for a minimum of three (3) years.

17 H. The Department shall promulgate rules necessary to implement
18 the licensing program and to implement the Oklahoma Industrial Hemp
19 Program.

20 I. The Department shall promulgate rules to facilitate
21 transportation of industrial hemp.

22 SECTION 4. AMENDATORY 2 O.S. 2021, Section 3-406.1, is
23 amended to read as follows:

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1 Section 3-406.1. An industrial hemp ~~processor~~ licensee ~~may~~
2 shall only remediate any industrial hemp legally grown pursuant to
3 the Oklahoma Department of Agriculture, Food, and Forestry and the
4 United States Department of Agriculture programs ~~so long as all THC~~
5 ~~is removed and it is processed as Cannabidiol (CBD)~~ at the
6 licensee's facility. Noncompliant hemp shall not leave the facility
7 until a compliant test is conducted by the Department or a lab
8 approved by the Department.

9 SECTION 5. AMENDATORY 2 O.S. 2021, Section 3-408, as
10 amended by Section 3, Chapter 265, O.S.L. 2022 (2 O.S. Supp. 2023,
11 Section 3-408), is amended to read as follows:

12 Section 3-408. A. The Department may deny, revoke or suspend a
13 license if the licensee:

14 1. Violates any provision of the Oklahoma Industrial Hemp
15 Program or rules adopted pursuant to the program;

16 2. Engages in fraud or deception in the procurement of or
17 attempt to procure a license under the Oklahoma Industrial Hemp
18 Program or provides false information on a license application;

19 3. Refuses or fails to cooperate and assist the Department with
20 the inspection process;

21 4. Refuses or fails to provide any information required or
22 requested by the Department for purposes of the Oklahoma Industrial
23 Hemp Program;

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1 5. Knowingly provides false, misleading or incorrect
2 information pertaining to the licensee's cultivation, handling or
3 processing of industrial hemp to the Department by any means,
4 including information provided in any application form, report,
5 record or inspection required or maintained for purposes of the
6 Oklahoma Industrial Hemp Program;

7 6. Fails to submit any report required by the Oklahoma
8 Industrial Hemp Program; or

9 7. Fails to pay fees required by the Oklahoma Industrial Hemp
10 Program.

11 B. 1. If a sample of a licensee's industrial hemp tests higher
12 than three-tenths of one percent (0.3%) but less than one percent
13 (1.0%) on a dry-weight basis for total delta-9 tetrahydrocannabinol
14 concentration, the licensee shall not be subject to any penalty
15 under the Oklahoma Industrial Hemp Program if the crop is destroyed
16 or remediated.

17 2. A licensee that negligently violates the provisions of the
18 Oklahoma Industrial Hemp Program three times in any five-year period
19 shall be ineligible to obtain a license pursuant to the Oklahoma
20 Industrial Hemp Program for a period of five (5) years beginning on
21 the date of the third violation.

22 C. Any person convicted of a felony relating to a controlled
23 substance under state or federal law shall be ineligible during the
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1 ten-year period following the date of conviction to participate in
2 this program.

3 SECTION 6. This act shall become effective November 1, 2024.

4 COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS
5 April 8, 2024 - DO PASS AS AMENDED BY CS

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